## IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA NORTHERN DIVISION

Case No. 2:23-cv-00026-M

ANTHONY LEON SAWYER,	)	
Plaintiff,	)	
v.	)	ORDER
ELIZABETH CITY PASQUATANK PUBLIC SCHOOL SYSTEM,	) ) )	
Defendant.	)	
	<i>)</i>	

This matter comes before the court on the memorandum and recommendation ("M&R") issued by Magistrate Judge Robert T. Numbers, II on August 1, 2023 [DE 38]. Judge Numbers ordered that leave of court was not required for Plaintiff to file an Amended Complaint pursuant to Rule 15(a) of the Federal Rules of Civil Procedure, and he recommends that the court deny Defendants' pending motions to dismiss the original Complaint without prejudice. Plaintiff has since filed an Amended Complaint in accordance with Judge Numbers' order, and no party has filed an objection to the M&R within the required time period.

A magistrate judge's recommendation carries no presumptive weight. The court "may accept, reject, or modify, in whole or in part, the . . . recommendation[] . . . receive further evidence or recommit the matter to the magistrate judge with instructions." 28 U.S.C. § 636(b)(1); accord Mathews v. Weber, 423 U.S. 261, 271 (1976). The court "shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.* § 636(b)(1). Absent a specific and timely objection, the court reviews only for "clear error" and need not give any explanation for adopting the recommendation. *Diamond v. Colonial* 

Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

"Ordinarily, an amended complaint supersedes those that came before it." *Goodman v. Diggs*, 986 F.3d 493, 498 (4th Cir. 2021) (citing *Young v. City of Mount Ranier*, 238 F.3d 567, 572 (4th Cir. 2001)). Here, Plaintiff properly filed an Amended Complaint as a matter of course pursuant to Rule 15(a)(1) on August 9, 2023. DE 39.

Upon careful review of the M&R and the entire record presented, and finding no clear error, the court ADOPTS the recommendation [DE 38] of the magistrate judge as its own. For the reasons stated therein, Defendants' Motions to Dismiss the Plaintiff's [original] Complaint [DE 8, 25, 29] are DENIED WITHOUT PREJUDICE as moot. Plaintiff shall serve the newly named Defendant in accordance with Rule 4 of the Federal Rules of Civil Procedure.

SO ORDERED this \_\_\_\_\_\_ day of August, 2023.

RICHARD E. MYERS II

CHIEF UNITED STATES DISTRICT JUDGE